

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-02-TC-056
US Cable)	
)	CUID No. NY1241 (Mayville)
Withdrawal of Complaint Regarding)	
Cable Programming Services Tier Rates)	

ORDER

Adopted: September 4, 2002

Released: September 6, 2002

By the Chief, Enforcement Bureau:¹

1. In this Order, we grant a cable programming services tier ("CPST") subscriber's request to withdraw a complaint filed with the Federal Communications Commission ("Commission") against the rates charged by the above-referenced operator ("Operator")² for its CPST in the community referenced above. On October 16, 1995, the Cable Services Bureau issued an Order, DA 95-2098 ("First Order")³ that resolved a complaint against the CPST rates in effect through May 14, 1994. In the First Order, the Cable Services Bureau stated that its findings "do not in any way prejudice the reasonableness of the price for CPS service after May 14, 1994 under our new rate regulations."⁴

2. On November 6, 1995, Operator filed a petition for reconsideration of the First Order. On November 22, 1995, while the Petition was pending, the subscriber submitted a request to withdraw the complaint. No other valid complaints were filed against Operator's CPST rates in the referenced community. On December 5, 1995, Operator supplemented its Petition with a motion to dismiss the complaint due to lack of jurisdiction, based on the subscriber's request to withdraw the complaint. On May 21, 1998, the Cable Services Bureau issued an Order, DA 98-952⁵ ("Second Order") resolving the Petition. However, in the Second Order, the Cable Services Bureau did not address the subscriber's request to withdraw the complaint. We hereby grant that request, and we dismiss the complaint against the CPST rates in effect beginning May 15, 1994.⁶

¹ Effective March 25, 2002, the Commission transferred responsibility for resolving cable programming services tier rate complaints from the former Cable Services Bureau to the Enforcement Bureau. *See Establishment of the Media Bureau, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau, Reorganization of the International Bureau and Other Organizational Changes*, FCC 02-10, 17 FCC Rcd 4672 (2002).

² The term "Operator" includes Operator's successors and predecessors in interest.

³ *In the Matter of US Cable Corporation*, DA 95-2098, 10 FCC Rcd 11426 (CSB 1995).

⁴ First Order at n. 1.

⁵ *In the Matter of East Arkansas Cablevision, Inc.*, DA 98-952, 13 FCC Rcd 13240 (CSB 1998).

⁶ Under the Commission's rules, the authority to regulate CPST rates arises when a valid complaint against those rates is filed, and our jurisdiction is predicated on the existence of a valid rate complaint. *See, e.g., In the Matter of*

3. Our further review of the record indicates that the total overcharge per subscriber calculated in the First Order is *de minimis* and it would not be in the public interest to order a refund. Therefore, we modify the First Order to exclude any refund liability.

4. Accordingly, IT IS ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that the complaint referenced herein, against the CPST rates charged by Operator beginning May 15, 1994 in the community referenced above, IS DISMISSED.

5. IT IS FURTHER ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that *In the Matter of US Cable Corporation*, DA 95-2098, 10 FCC Rcd 11426 (CSB 1995) IS MODIFIED TO THE EXTENT INDICATED HEREIN.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

Suburban Cable TV Co., Inc., DA 98-1053, 13 FCC Rcd 13862 (CSB 1998) and *In the Matter of MediaOne, Inc.*, DA 98-895, 13 FCC Rcd 11122 (CSB 1998). But see, *In the Matter of Vision Cable of Wilmington, et al.*, DA 95-623, 10 FCC Rcd 5142 (CSB 1995) ("*Vision Cable*"). In *Vision Cable*, the Cable Services Bureau refused to allow the withdrawal of a complaint after an order resolving the complaint had been released. However, the instant case is distinguishable from *Vision Cable*, because, in the instant case, no order has been released concerning the post May 14, 1994 CPST rates.